

Page 6 of 12
Application. No. 10/665,815
Amendment B

REMARKS

Responsive to the Office Action mailed March 30, 2006, Applicants provide the following. Eighteen (18) claims remain pending in the application: Claims 1-3 and 5-19. Reconsideration of claims 1-3 and 5-19 in view of the amendments above and remarks below is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

Claim Rejections - 35 U.S.C. §112

2. Claims 1-3, 6-7, 13-14 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 1 has been rejected as being indefinite. Applicants have amended claim 1 to remove reference to a vehicle in the body of the application and thus the claim is definite. Claims 7 and 13 have been amended to correct antecedent basis problems. Therefore, Applicants respectfully request the rejections be withdrawn.

Claim Rejections - 35 U.S.C. §102

3. Claims 1-3, 5-11, 13-14 and 19 stand rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 3,632,166 to Lohr. Applicants respectfully traverse these rejections and submit that the Lohr reference does not teach all the elements of at least Claims 1-3, 5-11, 13-14 and 19, and thus, does not anticipate claims 1-3, 5-11, 13-14 and 19. More specifically, for example amended claim 1 recites in part:

a base;
a seat pan moveably secured with the base; and
a back rest moveably secured with the base;
the seat pan includes a first portion and a second portion ... ;

Page 7 of 12
Application. No. 10/665,815
Amendment B

wherein movement of the second portion of the seat pan causes a change in an angle defined between the backrest and the second portion.

Support for the amendment to claim 1 can be found throughout the application as filed, for example, at least as shown in FIGS. 1-3 and 6-7 and the accompanying description thereof. Applicants respectfully submit that the Lohr patent does not teach or suggest at least a seat where the movement of the second portion of the seat pan causes a change in the angle between the backrest and said second portion and instead teaches away from changing an angle between the second portion of the seat pan and the back rest. The Lohr patent specifically recite that "[a]nother object is to provide a vehicle seat assembly including a bucket-type seat having unitary back and bottom portions" (Lohr, col. 3, lns. 33-35). The seat described in the Lohr patent "includes unitary back and bottom portions," therefore the movement of the bottom portion does not change the angle between the backrest and bottom portion since they are unitary and are at the same angle relative to one another at all times (Lohr, Fig. 2). It would go directly against the intended purpose of the seat of Lohr should the angle between the back and bottom portion change as the bottom portion is moved. Therefore, the Lohr patent does not teach all of the limitations of amended claim 1, and thus, claim 1 is not anticipated by the Lohr patent.

Claim 8 includes languages similar to that of claim 1. Therefore, claim 8 is also not anticipated by the Lohr patent for at least the reasons provided above.

Claims 2-3 and 5-7 depend from claim 1, and claims 9-14 depend from claim 8. Therefore, dependent claims 2-3, 5-7 and 9-14 are also not anticipated by the Lohr patent due at least to their dependency on independent claims 1 and 8.

Further, with respect to at least claim 7, Lohr does not teach or suggest at least a pivot arm secured with the base wherein the pivot arm pivots about the first end moving the front portion of the seat pan as the seat pan moves. The office action suggests that Lohr teaches a pivot arm (24) shown in Figure 2 of the Lohr patent (office action, pg. 4). However, in Lohr the front portion of the seat pan is not moved by the link (24), which the office action identifies as the pivot arm (office action, pg. 4). Instead, the front portion of the seat pan is moved by a user rotating an actuating handle 82 that is

Page 8 of 12
Application No. 10/665,815
Amendment B

fixed to the end of the actuating shaft 72 (Lohr, col. 3, lns. 45-75). Specifically, Lohr states that:

[t]he actuating shaft 72 is engaged with pivot arm 70 in such a manner to cause rotation of pivot arm 70 only upon rotation of actuating shaft 72 to actuate the leg rest member about the axis of rod 62 to a selected position, and to prevent rotation of pivot arm 70 in response to the application of pressure to the leg rest member 16 ... An actuating handle 82 is fixed to the end of the actuating shaft 72 in such a position that it can be grasped by the person occupying the seat so that merely by turning the handle 82, the occupant can adjust the leg rest member 16 ... about the axis or rod 62. (Lohr, col. 3, lines 46-75).

As such, Lohr does not teach all of the elements of claim 7, and therefore, claim 7 is not anticipated by the Lohr patent.

Claim Rejections - 35 U.S.C. §103

4. Claims 12, 15, 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Lohr patent in view of U.S. Patent No. 6,742,840 to Bentley. Applicants note that the office action only recites the Bentley patent in the initial rejection of claims 12, 15 and 17 and then relies on Lohr in the arguments for the rejections. Therefore, it is Applicants understanding that claims 12, 15 and 17 are rejected over the combination of Lohr and Bentley. If the rejection is not based on Lohr in view of Bentley Applicants respectfully request a new office action be issued with the correct rejection. Applicants respectfully traverse the rejections of claims 12, 15 and 17 over Lohr in view of Bentley.

Claim 12 for example recites in part a seat wherein the distal end of the first portion of the seat pan pivots out of alignment with the second portion and towards a floor upon which the base is supported when the seat pan is moved generally horizontally in a first direction. Lohr specifically teaches away from moving the front portion of the seat pan in response to the movement of the seat pan, where only "[t]he actuating shaft 72 ... cause[s] rotation of pivot arm 70 only upon rotation of actuating shaft 72 ... [where the] actuating handle 82 is fixed to the end of the actuating shaft 72 in such a position that it can be grasped by the person occupying the seat so that ... the occupant can adjust the leg rest member 16" (Lohr, col. 3, lines 46-75). Therefore, the Lohr patent specifically

Page 9 of 12
Application No. 10/665,815
Amendment B

limits the rotation of the front portion of the seat pan to an actuation by the user rotating the actuating handle and not by the movement of the seat. Therefore, the Lohr patent teaches away from rotating the front portion when of the seat pan is moved in the first direction, and thus, one skilled in the art would not combine the Bentley patent with the Lohr patent as suggested in the office action as this would go against the teachings of the Lohr patent. As such, claim 12 is not obvious over the combination of Lohr and Bentley.

Further, with regard to at least claim 15 the Bentley patent does not teach at least pivotably securing a backrest with the back frame such that a lower portion of the back rest pivots as the second portion of the seat pan is moved along the axis. The office action suggests that Bentley teaches a back frame (I) which provides support for the backrest (14) and is secured to the base (office action, pg. 7). However back frame (I) shown in Figures 3 and 4 is not a back frame, and further only refers to the portion of the backrest 14 that extends into and defines a rear portion 90 (see at least FIG. 4 of Bentley and col. 5, lines 1-3). Therefore, the interface I does not refer to a back frame as suggested on page 7 of the office action, and instead in part of the backrest 14. Further, the backrest 14 is not pivotably secured with the interface I and instead the interface I is part of the backrest 14 extending into the rear portion 90. Still further, the Bentley teaches away from pivotably securing the backrest 14 with the rear portion 90 stating a "bottom is both multi-part and lacking any hinge ... where rear portion 90 abuts backrest 14" (Bentley, col. 5, lns. 1-2).

Further, the office action is inconsistent in the rejection stating that Bentley describes "a back frame (I)" in attempting demonstrate an equivalent seat pan and continues in attempts to demonstrate how Bentley also shows a backrest pivotably secured with the base stating "the back frame (unlabeled)". Therefore, the office action is inconsistent in the rejection because Bentley fails to teach each limitation as recited in claim 15. Therefore, the combination of Lohr and Bentley fails to teach or suggest each limitation as recited in claim 15, and thus, claim 15 is not obvious over the Lohr patent in view of the Bentley patent.

Claim 17 depend from claim 15. Therefore, claim 17 is also not obvious in view of the Bentley patent due at least to its dependency on claim 15.

Page 10 of 12
Application No. 10/665,815
Amendment B

5. Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley in view of U.S. Patent No. 6,352,309 to Beroth. Applicants respectfully traverse this rejection. The office action suggests that "Bentley discloses all claimed elements with the exception of a backrest frame rotationally secured to the base" (office action, pg. 8). However, as demonstrated above the Bentley patent does not teach all of the elements of claim 15, and further the combination of Lohr and Bentley fails to teach all of the limitations of claim 15. Claim 16 depends from claim 15, therefore Bentley does not teach all of the elements of claim 16 as suggested by the office action.

Further, the Bentley patent fails to teach or suggest at least pivotably securing a back rest with the back frame. Instead, the Bentley patent avoids pivotably securing a backrest 14 with a frame (see at least FIG. 4 of Bentley). The Beroth patent also fails to teach or suggest at least "pivotably securing a back rest with the back frame" as recited in claim 15. The Beroth patent specifically fixes the back rest 20 to the back frame (e.g., see FIG. 1 of Beroth), and fails to teach or suggest pivotably securing the back rest to the back frame as recited.

Additionally, one skilled in the art would not combine the Bentley patent with the Beroth patent, because the Bentley patent describes a seat where a "bottom is both multi-part and lacking any hinge ... where rear portion 90 abuts backrest 14" (Bentley, col. 5, lns. 1-2) and teaches away from rotationally securing the back frame with the base according to Beroth as such rotation would cause the bottom portion 90 of the Bentley seat to extend upward and prevent a users from sitting in the seat (see at least FIG. 4 of Bentley and FIGS. 4 and 6 of Beroth). As such claim 16 is not obvious over the combination of the two references, and as such, is in condition for allowance.

6. Claim 18 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Lohr (4,632,166) in view of Beroth (6,352,309). Applicants respectfully traverse this rejection. The office action suggests that Lohr discloses all claimed elements except a "backrest frame rotationally secured to the base" (office action, page 8). However, claim 18 is dependant on claim 8, and as described above Lohr does not teach all of the limitations of claim 8, and as such Lohr does not teach all of the limitations of claim 18 as suggested. Further, one skilled in the art would not combine the

Page 11 of 12
Application No. 10/665,815
Amendment B

Lohr patent and the Beroth patent because the Lohr patent specifically teaches away from a back rest rotationally secured to the base since it is an object of the Lohr patent that a back frame be unitary with the bottom portion (Lohr, see at least col. 2, lns. 28-30). For example, Lohr specifically recites that “[a]nother object is to provide a vehicle seat assembly including a bucket-type seat having unitary back and bottom portions” (Lohr, col. 3, lns. 33-35). Therefore, one skilled in the art would not alter the seat of Lohr based on the seat of Beroth as this would defeat the intended purpose of the seat of the Lohr patent. As such claim 18 is not obvious over the Lohr patent in view of the Beroth patent, and therefore, is in condition for allowance.

New Claims

7. Claim 20 has been added without adding new matter. Support for claim 20 can be found in the application as filed at least at page 11, line 31 through page 12 line 13. The applied references do not teach a seat as claimed with a first portion that rotates in response to movement of the second portion. Specifically, the Lohr patent does not teach or suggest at least a seat pan with a first and second portion where the first portion rotates in response to the movement of the second portion. Instead, the Lohr patent describes that the front portion of the seat pan moves independently of the back portion when a user actuates an actuating handle 82 is fixed to the end of the actuating shaft 72 (see at least Lohr, col. 3, lines 45-75), and so that “the occupant of the seat can adjust the contour of the seat to obtain a comfortable relationship between the tilt angle and the contour of the seat” (Lohr, col. 1, lns. 56-58). The positioning of the front portion of the seat pan, as described in Lohr, is dependent on an occupant moving the front portion and is independent of the movement of the back portion of the seat pan. Therefore, claim 20 is not taught or suggested by the applied references, and thus, is in condition for allowance.

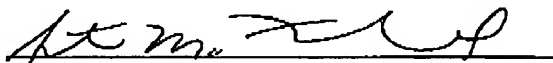
Page 12 of 12
Application No. 10/665,815
Amendment B

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

Dated: 6-30-06



Steven M. Freeland
Reg. No. 42,555
Attorney for Applicants
(858) 552-1311

Address all correspondence to:
Fitch, Even, Tabin & Flannery
Thomas F. Lebens
120 So. LaSalle Street, Ste. 1600
Chicago, IL 60603
(858) 552-1311

453521_1(81009amB)